

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,  Plaintiff,  v.  DAMARA CJ NEEDHAM,  Defendant.	4:20-cr-40104-KES-1  ORDER DENYING MOTION TO REDUCE SENTENCE
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Defendant, Damara Needham, filed a motion, under 18 U.S.C. § 3582(c)(2), requesting a reduction to her sentence pursuant to new retroactive Sentencing Guidelines provisions. Docket 223. Plaintiff, the United States of America, opposes Needham’s motion. Docket 224. For the following reasons, Needham’s motion for a sentence reduction is denied.

**DISCUSSION**

The process for considering a Section 3582(c) motion is well established. As the Supreme Court has made clear, Section 3582(c) “does not authorize a . . . resentencing proceeding.” *Dillon v. United States*, 560 U.S. 817, 825 (2010). Rather, it provides only for the possibility of “a limited adjustment to an otherwise final sentence” following a “two-step approach.” *Id.* at 826, 827.

“At step one, § 3582(c)(2) requires the court to follow the Commission’s instructions . . . to determine the prisoner’s eligibility for a sentence modification and the extent of the reduction authorized.” *Id.* at 827. As to whether the defendant is eligible for any reduction, “§ 1B1.10(b)(1) requires the

court to begin by ‘determin[ing] the amended guideline range that would have been applicable to the defendant’ had the relevant amendment been in effect at the time of the initial sentencing.” *Id.* (quoting U.S.S.G. § 1B1.10(b)(1)). If the amendment would not have altered the defendant’s sentencing range even if it had been applicable at the time of the defendant’s sentencing, then the defendant is not eligible for a sentencing reduction. See U.S.S.G.

§ 1B1.10(a)(2)(B) (“A reduction in the defendant’s term of imprisonment is not consistent with this policy statement and therefore is not authorized under 18 U.S.C. § 3582(c)(2) if . . . [the retroactive amendment] does not have the effect of lowering the defendant’s applicable guideline range.”).

Needham’s Guidelines range, based on a total offense level of 31 and a criminal history category of II, was 121 to 151 months in prison. Docket 110 at 13. On March 7, 2022, the court sentenced Needham to 121 months in custody for conspiracy to distribute a controlled substance. Docket 113 at 1-2.

On March 18, 2024, Needham filed a motion requesting a reduction to her sentence pursuant to new retroactive Sentencing Guidelines provisions under 18 U.S.C. § 3582(c)(2). Docket 223. She failed to specify which amendment applies to her case, though she does mention “status points.” *Id.* at 2. Because it is not clear which provision Needham relies upon, the court will analyze her motion under both amendments.

#### **I. U.S.S.G. § 4A1.1(e)**

In Part A to Amendment 821 to the Sentencing Guidelines, the Sentencing Commission altered the “status points” provision regarding criminal

history, which now appears in U.S.S.G. § 4A1.1(e). The amended provision states:

Add one point if the defendant (1) receives 7 or more points under subsections [§ 4A1.1(a)] through (d), and (2) committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.

U.S.S.G. § 4A1.1(e). The Commission decreed that this change applies retroactively. *See* § 1B1.10(e)(2) (Nov. 1, 2023).

Needham did not receive any “status points” for committing her offense while under any criminal justice sentence. *See generally* Docket 110. Thus, the amendment to U.S.S.G. § 4A1.1(e) does not apply to her case.

## **II. U.S.S.G. § 4C1.1**

In Subpart 1 of Part B to Amendment 821 to the Sentencing Guidelines, the Sentencing Commission added an adjustment for certain zero-point offenders, which now appears in Section 4C1.1. The provision states:

If the defendant meets all of the following criteria: (1) the defendant did not receive any criminal history points from Chapter Four, Part A; (2) the defendant did not receive an adjustment under § 3A1.4 (Terrorism); (3) the defendant did not use violence or credible threats of violence in connection with the offense; (4) the offense did not result in death or serious bodily injury; (5) the instant offense of conviction is not a sex offense; (6) the defendant did not personally cause substantial financial hardship; (7) the defendant did not possess, receive, purchase, transport, transfer, sell, or otherwise dispose of a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense; (8) the instant offense of conviction is not covered by § 2H1.1 (Offenses Involving Individual Rights); (9) the defendant did not receive an adjustment under § 3A1.1 (Hate Crime Motivation or Vulnerable Victim) or § 3A1.5 (Serious Human Rights Offense); and (10) the defendant did not receive an adjustment under § 3B1.1 (Aggravating Role) and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848; decrease the offense level

determined under Chapters Two and Three by 2 levels.

U.S.S.G. § 4C1.1.

Needham fails to meet the criteria for zero-point offenders because she had 3 criminal history points. Docket 110 at 7-9. Because criterion 1 applies to her case, she is ineligible for the zero-point offender reduction under the plain language of U.S.S.G. § 4C1.1(a). Thus, the amendment to U.S.S.G. § 4C1.1 does not apply to her case.

### **CONCLUSION**

It is ORDERED that Needham's motion (Docket 223) is DENIED.

Dated March 28, 2024.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER  
UNITED STATES DISTRICT JUDGE